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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/478,777	01/06/2000	JOANNE S. WALTER	8998	2149

7590

11/25/2002

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EXAMINER

BORISSOV, IGOR N

ART UNIT

PAPER NUMBER

3629

DATE MAILED: 11/25/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

09/478,777

Applicant(s)

WALTER, JOANNE S.

Examiner

Igor Borissov

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 03 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on 03 September 2002.
- 2a) ☐ This action is FINAL. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

## Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

**Claims 1-2, 4-8, 9-10, 12-16, 17-18, 20 and 21-26** are rejected under 35 U.S.C. 103(a) as being unpatentable over Lutz (U. S. 6,155,486) in view of Sato (U. S. 5,949,854).

As per **claim 1, 9 and 17**,

Lutz teaches apparatus and method for operating a self-service checkout terminal, comprising:

- generating a first voice instruction which instructs a user in regard to operation of the retail terminal (voice generating device generates instruction to guide a customer to scan an item) (column 6, lines 24-29; column 7, lines 26-27);
- determining if said user performs a first activity and generating a proper-response control signal in response thereto (post-scan scale generates an output signal indicative of the weight increase) (column 6, lines 60-66);
- generating a second voice instruction which instructs a user in regard to operation of the retail terminal if a predetermined amount of time lapses subsequent to generation of the first

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voice instruction, but prior to generation of the proper-response control signal (column 8, lines 61-64; column 9, lines 33-40).

Lutz does not specifically teach to a voice type and voice inflection level of voice instructions.

Sato teaches a voice response service apparatus and method, comprising a tone controller for selecting a tone of the voice responses, and an intonation generating portion for generating the intonation pattern (Abstract; column 9, lines 38-45).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Lutz to include a tone selection capability because it would improve the performance of the system by alerting customer of his improper interaction with the system by changing the voice tone and intonation of the instructions.

As per **claims 2, 10 and 18**, Lutz teaches said apparatus and method, comprising:

- determining if said user performs a second activity and generating an improper-response control signal in response thereto (column 6, lines 24 through column 7, lines 26-27);
- generating a third voice instruction which instructs a user in regard to operation of the retail terminal in response to generation of said improper-response control signal (column 8, line 22 through column 9, line 58).

As per **claims 4, 12 and 20**, Sato teaches said apparatus and method, comprising a volume controller which sets a volume level of a voice response (Abstract).

As per **claims 5, 7, 13 and 15**, Sato teaches said apparatus and method, comprising an intonation generating portion which generates the intonation pattern indicating the voice pitch (column 9, lines 38-45).

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As per **claims 6, 8, 14 and 16**, Sato teaches said apparatus and method, comprising a tone controller wherein voice quality of the voices can be at least one of a male voice and a female voice (Abstract; column 3, lines 9-11).

As per **claims 21-22 and 24-25**, Sato teaches said apparatus and method, comprising

- generating a first voice message in a first voice type (Abstract; column 3, lines 9-11; column 9, lines 4-45);

- generating a second voice message in a second voice type in response to generation of the improper-response control signal (Abstract; column 3, lines 9-11; column 9, lines 4-45).

As per **claims 23 and 26**, Lutz teaches said apparatus and method wherein at least one of the first voice message and the second voice message instructs the user relative to operation of the retail terminal (column 6, lines 24 through column 7, lines 26-27; column 8, line 22 through column 9, line 58).

**Claims 3, 11 and 19** are rejected under 35 U.S.C. 103(a) as being unpatentable over Lutz and Sato in view of Lutz (US 6,354,498).

As per **claims 3, 11 and 19**, Lutz and Sato teach all the limitations of **claims 3, 11 and 19**, except for updating an electronic log value in response to generation of said improper-response control signal, and comparing said electronic log value to a log threshold and generating a personnel-needed control signal.

Lutz (US 6,354,498) teaches an apparatus and method for displaying the status of a self-service checkout terminal, wherein the electronic (suspicion) log value is updated in response to the improper-response signal, and, upon comparing of said electronic log value to a log

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threshold, a personnel-needed control signal is generated (column 7, line 31 through column 8, line 21).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify Lutz and Sato to include updating an electronic log value in response to generation of said improper-response control signal, and comparing said electronic log value to a log threshold and generating a personnel-needed control signal because it would enhance the accuracy and security of the system thereby generate more revenue.

#### ***Remarks***

Upon reconsideration, original **claims 2, 3, 10, 11, 18 and 19**, originally indicated by the examiner as allowable, now stand rejected.

#### ***Response to Arguments***

The changes made to 35 U.S.C. 102(e)/103 by the American Inventors Protection Act of 1999 (AIPA) do not apply to the examination of this application as the application being examined was not (1) filed on or after November 29, 2000, or (2) voluntarily published under 35 U.S.C. 122(b). Therefore, this application is examined under 35 U.S.C. 102(e) prior to the amendment by the AIPA (pre-AIPA 35 U.S.C. 102(e)).

Claims 1-26 provisionally rejected under 35 U.S.C. 102(e) as being anticipated by copending Applications No. 09/245,588 and 08/998,210 which have a common assignee with the instant application.

Based upon the earlier effective U.S. filing date of the copending application, it would constitute prior art under 35 U.S.C. 102(e), if patented. This provisional rejection under 35 U.S.C. 102(e) is based upon a presumption of future patenting of the copending application.

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This provisional rejection under 35 U.S.C. 102(e) might be overcome either by a showing under 37 CFR 1.132 that any invention disclosed but not claimed in the copending application was derived from the inventor of this application and is thus not the invention "by another," or by an appropriate showing under 37 CFR 1.131.

This rejection may not be overcome by the filing of a terminal disclaimer. See *In re Bartfeld*, 925 F.2d 1450, 17 USPQ2d 1885 (Fed. Cir. 1991).

Also, see MPEP 706.02(k).

**THIS ACTION IS NOT MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

***Conclusion***

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure (see form PTO-892).

Any inquiry concerning this communication should be directed to Igor Borissov at telephone number (703) 305-4649.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Receptionist whose telephone number is (703) 308-1113.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's Supervisor, John Weiss, can be reached at (703) 308- 2702.

Any response to this action should be mailed to:

***Commissioner of Patents and Trademarks  
Washington D.C. 20231***

or faxed to:

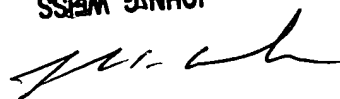
**(703) 305-7687** [Official communications; including

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After Final communications labeled  
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Hand delivered responses should be brought to Crystal Park 5, 2451 Crystal Drive,  
Arlington, VA, 7<sup>th</sup> floor receptionist.

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